

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

NOV 26 2014

Clerk, U.S. District Court
District Of Montana
Billings

GILBERT WALKS, JR.,

Plaintiff,

vs.

RICHARD CEBULL,

Defendant.

CV 14-122-BLG-SPW

OPINION AND ORDER

Plaintiff Gilbert Walks filed a complaint against former United States District Judge Richard Cebull. (Doc. 1). In his Complaint, Walks does not provide supporting facts and only claims that Judge Cebull committed “Racial Bias Due Process violation, 4th, 5th, 6th[,] 14th, Amendment violations.” (*Id.* at 3). Magistrate Judge Ostby recommends dismissing Walks’ Complaint with prejudice. (Doc. 6). Walks filed objections on November 24, 2014.¹ (Doc. 8).

Walks did not timely object to Magistrate Judge Ostby’s Findings and Recommendations. Magistrate Judge Ostby entered her Findings and Recommendations on October 24, 2014. Walks had 14 days after their service to object. 28 U.S.C. § 636. Because Walks was served via conventional mail, three days are added. Fed. R. Civ. P. 6(d). Walks had until November 13, 2014 to file objections. Since Walks did not file his objections until November 24, 2014, they

¹ Curiously, Walks dated his signature as November 25, 2014. (Doc. 8 at 2).

are untimely and he is not entitled to de novo review. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

When neither party timely objects, this Court must still review Magistrate Judge Ostby's conclusions for clear error. Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir.2000). After reviewing the Findings and Recommendations, this Court does not find that Magistrate Judge Ostby committed clear error.

Accordingly, IT IS HEREBY ORDERED:

1. Magistrate Judge Ostby's Findings and Recommendations (Doc. 6) are ADOPTED IN FULL.

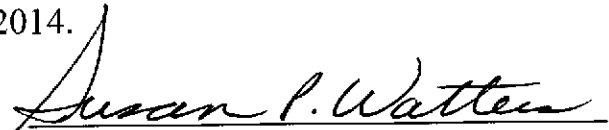
2. Walks' Complaint (Doc. 1) and Supplemental Complaint (Doc. 5) are DISMISSED with prejudice.

3. The Clerk of Court shall close this case and enter a judgment of dismissal.

4. The Clerk of Court shall have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g).

5. The Clerk of Court shall have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

DATED this 26th day of November 2014.


SUSAN P. WATTERS
United States District Judge